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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/725,393	11/29/2000	Arnab Das	3-9-56	9723
30594	7590	05/15/2006		EXAMINER
HARNESS, DICKEY & PIERCE, P.L.C. P.O. BOX 8910 RESTON, VA 20195				MYERS, PAUL R
			ART UNIT	PAPER NUMBER
			2112	

DATE MAILED: 05/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Notification of Non-Compliant Appeal Brief (37 CFR 41.37)</b>	<b>Application No.</b> 09/725,393	<b>Applicant(s)</b> DAS ET AL.
	<b>Examiner</b> Paul R. Myers	<b>Art Unit</b> 2112

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 10 August 2005 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.  
**EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1.  The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2.  The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3.  At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4.  (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5.  The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi))
6.  The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7.  The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8.  The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9.  The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10.  Other (including any explanation in support of the above items):  
  
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On May 9, 2006 the examiner received an order returning undocketed appeal to examiner.

The order stated:

A review of the file indicates that the appeal brief filed August 10, 2005, did not fully comply with 37 CFR 5 41.37(c).

37 CFR 5 41.37(c) states in part:

(v) Summary of claimed subject matter. A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vi) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

(ix) Evidence appendix. An appendix containing copies of any evidence submitted pursuant to 55 1.130, 1.131, or 1.132 of this title or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered in the record by the examiner. Reference to unentered evidence is not permitted in the brief. See 5 41.33 for treatment of evidence submitted after appeal. This appendix may also include copies of the evidence relied upon by the examiner as to grounds of rejection to be reviewed on appeal.

(x) Related proceedings appendix. An appendix containing copies of decisions rendered by a court or the Board in any proceeding identified pursuant to paragraph (c)(1)(ii) of this section.

A review of the application indicates that the following appropriate sections are missing from the appeal brief filed August 10, 2005:

- 1) "Evidence appendix" as set forth in 37 CFR § 41.37(c) (1) (ix)
- 2) "Related proceedings appendix" as set forth in 37 CFR § 41.37 (c) (1) (x).

A supplemental appeal brief in compliance with 37 CFR § 41.37 is required. For more information on the Board's new rules see the web page entitled More Information on the Rules of Practice Before the BPAI, Final Rule at:  
<http://www.uspto.gov/web/offices/dcom/bpai/fr2004/moreinfo.html>.

On April 12, 2006, Lesley M. Gordon, Paralegal Specialist here at the Board of Patent Appeals and Interferences, contacted Gary D. Yacura (Registration No. 35416) and requested the missing appendices. As of May provided. Also, the "Summary of

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"claimed subject matter" does not map the independent claims as set forth 34 CFR § 41.37 (c) (1) (v).

Accordingly, it is ORDERED that this application be returned the examiner to: 1) hold the appeal brief of August 2005 defective; 2) request appellants to file a supplemental appeal brief in compliance with 37 CFR § 41.37; and 3) for such further action as may be appropriate.

In response thereto the examiner is holding the appeal brief defective for the reasons provided by the board.



PAUL R. MYERS  
PRIMARY EXAMINER